



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** June 3, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300087

**APPLICANT:** Tony Bokanian

**OWNER:** KAMD Partners LLC

**COUNCIL DISTRICT IMPACTED:** District 4

**LOCATION:** Generally located in the 9600 Block of South IH-35

**LEGAL DESCRIPTION:** Lot P-51B, NCB 14567

**ZONING:** "L MLOD-2 MLR-1 AHOD" Light Industrial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

A variance from the fence materials to allow for a corrugated metal fence on the property.  
Section 35-514

**Executive Summary**

The subject property is located approximately a mile north of I-35 S and I-410 interchange, east of New Laredo Highway, 450' south of Cassin Drive along I-35 South Access Road. The applicant, also being the property owner, is requesting a corrugated metal variance to construct a perimeter fence around a vacant property located within the 9600 Block of IH-35 South to ensure the safety and privacy of the and the public for future expansion of Salvage Yard and Metal Recycling. The issuance of a permit is pending the outcome of the Board of Adjustment.

**Code Enforcement History**

No Code Enforcement history found.

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 81105 dated, December 30, 1994, and zoned Temporary “R-1” Single-Family Residence District. The property was rezoned by Ordinance 82683, dated August 24, 1995, from Temporary “R-1” Single-Family Residence District to “R-A” Residence-Agriculture District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-A” Residence-Agriculture District Restrictive converted to “NP-10” Neighborhood Preservation District. The property was rezoned by Ordinance 2023-12-07-0935 dated, December 7, 2023, from “NP-10” Neighborhood Preservation District to “L” Light Industrial District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"L MLOD-2 MLR-1 AHOD" Light Industrial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.

**Existing Use**

Vacant Land

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

“C-3R MLOD-2 MLR-1 AHOD” Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.

**Existing Use**

Salvage Yard

**South**

**Existing Zoning**

Unzoned Right-of Way

**Existing Use**

I-35 South

**East**

**Existing Zoning**

"L MLOD-2 MLR-1 AHOD" Light Industrial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.

**Existing Use**

Vacant Land

**West**

**Existing Zoning**

"L MLOD-2 MLR-1 AHOD" Light Industrial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.

"C-3R MLOD-2 MLR-1 AHOD" Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.

**Existing Use**

Motor Vehicle Sales

Salvage Yard

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the West/Southwest Sector Plan and is designated as "Agribusiness Tier" in the future land use component of the plan. The subject property is not located within the boundary of a registered neighborhood association.

**Street Classification**

Interstate 35 South is classified as a Super Arterial Type B 200'-250'.

**Criteria for Review – Corrugated Metal Fence Variance**

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by the required materials for constructing a fence. The applicant is requesting an exception to the approved fence materials as defined in the Unified Development Code Section 35-514 to allow for a corrugated metal fence. The request is contrary to the public interest, as corrugated metal is a prohibited material and will create a safety hazard.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Staff found no special conditions on the subject property that would permit an exception to the approved fence materials. While there is a requirement for metal recycling entities to maintain fences at least 8' in height Sec 16-210.2, it must be constructed with permitted materials.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The structure does not appear to observe the spirit of the ordinance, as it is constructed from prohibited fencing materials.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

No uses other than those allowed within the district will be allowed with this variance.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

Staff finds the granting of the variances will substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district in which the property is located, as the fence is constructed of prohibited fencing materials. Upon visiting the site, staff found fences constructed of corrugated metal in the immediate surrounding area.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the district in which the property is located.*

Staff finds the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property, as there are approved fence materials for constructing a fence outlined in the Unified Development Code Section 35-514(a)(6).

#### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Fence Material Requirements of the UDC Section 35-514(a)(6).

#### **Staff Recommendation – Corrugated Metal Variance**

Staff recommends Denial in BOA-24-10300087 based on the following findings of fact:

1. There are no unique circumstances on the property that merit deviation the required fence materials.
2. The request is contrary to the public interest as it can potentially create a safety concern.